

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSE BEZAREZ,	§	
	§	No. 472, 2010
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0702002298
Appellee.	§	

Submitted: August 11, 2010

Decided: August 13, 2010

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

ORDER

This 13th day of August 2010, it appears to the Court that:

(1) On July 28, 2010, the Court received Jose Bezarez’ notice of appeal from the Superior Court’s June 22, 2010 order denying Bezarez’ motion for postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before July 22, 2010.¹

(2) On July 28, 2010, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing that Bezarez show cause why the appeal should not be dismissed as untimely filed. In his response to the notice filed on August 11, 2010, Bezarez explains that he is a “first time” *pro se* litigant and was unaware that he

¹ Del. Supr. Ct. R. 6(a)(iii).

had to file a notice of appeal within thirty days. Bezarez requests that the Court excuse the untimely filing of the notice of appeal.

(3) “Time is a jurisdictional requirement.”² A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period to be effective.³ An appellant’s *pro se* status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, the appeal cannot be considered.⁵

(4) In this case, the Court has concluded that the appeal must be dismissed. Bezarez does not contend, and the record does not reflect, that his failure to timely file the notice of appeal is attributable to court-related personnel. Thus, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Carolyn Berger
Justice

² *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

³ Del. Supr. Ct. R. 10(a).

⁴ *Carr v. State*, 554 A.2d at 779.

⁵ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).